Case: 1:24-mj-00301
Assigned To : Judge Zia M. Faruqui
Assign. Date : 9/23/2024
Description: COMPLAINT W/ARREST WARRANT

STATEMENT OF FACTS

Your affiant, [redacted], is a Special Agent with the Federal Bureau of Investigation ("FBI"), currently assigned to [redacted] Division, [redacted] Resident Agency working terrorism matters in conjunction with the [redacted] Joint Terrorism Task Force. I have been employed by the FBI since June 2012. Prior to joining the FBI, I served in the United States Army as both an Infantry and Intelligence Officer and as a Defense Contractor. As a federal agent, I am authorized to investigate violations of laws of the United States and to execute warrants issued under the authority of the United States. As a case agent I have investigated federal law violations including homicide, assault, sexual assault, child sexual assault, domestic violence, firearms offenses, the sale and distribution of illegal narcotics as well as matters of national security including hate crimes, conspiracy and various interstate violations. During these investigations, I have obtained and executed warrants, to include search and arrest warrants and federal grand jury subpoenas, issued under the authority of the United States.

The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter. Currently, I am tasked with investigating criminal activity in and around the U.S. Capitol grounds on January 6, 2021. As a Special Agent, I am authorized by law or by a government agency to engage in or supervise the prevention, detention, investigation, or prosecution of a violation of Federal criminal laws.

The U.S. Capitol is secured 24 hours a day by U.S. Capitol Police. Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by U.S. Capitol Police. Only authorized people with appropriate identification were allowed access inside the U.S. Capitol. On January 6, 2021, the exterior plaza of the U.S. Capitol was also closed to members of the public.

On January 6, 2021, a joint session of the United States Congress convened at the United States Capitol, which is located at First Street, SE, in Washington, D.C. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in separate chambers of the United States Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Vice President Mike Pence was present and presiding, first in the joint session, and then in the Senate chamber.

As the proceedings continued in both the House and the Senate, and with Vice President Mike Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the U.S. Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the Capitol building and the proceedings underway inside.

At such time, the certification proceedings were still underway, and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police

attempted to maintain order and keep the crowd from entering the Capitol; however, around 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of the U.S. Capitol Police, as others in the crowd encouraged and assisted those acts.

Shortly thereafter, at approximately 2:20 p.m. members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President Mike Pence, were instructed to—and did—evacuate the chambers. Accordingly, the joint session of the United States Congress was effectively suspended until shortly after 8:00 p.m. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

During national news coverage of the events, video footage which appeared to be captured on mobile devices of persons present on the scene depicted evidence of violations of local and federal law, including scores of individuals inside the U.S. Capitol building without authority to be there.

ARBABI'S INTERVIEW WITH THE FBI AND IDENTIFICATION

In April 2021, Ehsan ARBABI agreed to an interview with the FBI in the presence of his attorney. During the interview, the interviewing agent identified that ARBABI was wearing the same blue and gray jacket the day of the April interview as he was on January 6, 2021. The interviewing agent showed ARBABI the following photos and ARBABI confirmed his identity:

Images 1 and 2: Screenshots of open-source video taken on January 6, 2021 on Capitol grounds

The FBI also recovered multiple photos and videos of ARBABI at the Capitol on January 6 after a consent search of his phone and GoPro camera.

ARBABI'S ACTIONS BEFORE JANUARY 6, 2021

ARBABI drove from Idaho to Washington, D.C. to attend the "Stop the Steal" protest. Before January 6, ARBABI had multiple text conversations between January 2, 2024 and January 5, 2024, in which he explained why he wanted to attend the "Trump Rally." He told various people that he felt "compelled to [go to D.C.] for some reason"; that he felt "like the universe is trying to guide me that way [to D.C.] for whatever reason"; and that "There were many reasons for my decision, but the rally, my 40th birthday, the end of the year, wrapping up my last decade, bring out on the open road again, all of those were significant factors".

On January 5, ARBABI texted an individual, "It's tomorrow, they open the gates to the White House lawn at 7, speakers start at 9, President speaks at 11, then it's a march to the capitol building for the certification vote".

ARBABI'S ACTIVITIES IN WASHINGTON, D.C. ON JANUARY 6

According to ARBABI's interview with the FBI, ARBABI arrived in Washington, D.C. on January 5, 2021. He stayed at the Ritz Carlton in Pentagon City.

ARBABI told the FBI during his interview that he wanted to get to D.C. early to get a good spot to view former President Trump's speech. There are numerous photos on ARBABI's phone that place him near the Washington monument on January 6 between 7:40 a.m. and 11:30 a.m. ARBABI told the FBI that he didn't stay for all of former President Trump's speech but walked to the Capitol building because he thought that former President Trump would be speaking at the Capitol building.

Based on photos and videos recovered from ARBABI'S phone and GoPro and open-source videos and photos, ARBABI then traveled to the west side of the Capitol building. Based on my review of ARBABI's video footage, as ARBABI approached the Capitol building, there were multiple layers of snow fencing with "Area Closed" signs and bike fencing.

Image 3: Photo recovered from ARBABI's phone

Based on my review of ARBABI's video footage, ARBABI walked closer to the Capitol building, walking past "area closed" signs.

Image 4: Screenshot from one of ARBABI's videos

Based on my review of ARBABI's footage, he was stopped by a line of police officers on the west side of the Capitol building. The police officers set up line of bike racks to stop ARBABI and the other rioters from walking closer to the Capitol building. Other rioters chant "This is our house!" Moments later, the rioters overtook the police line and continued towards the Capitol building. ARBABI follows and steps over permanent fencing that had been torn from the ground.

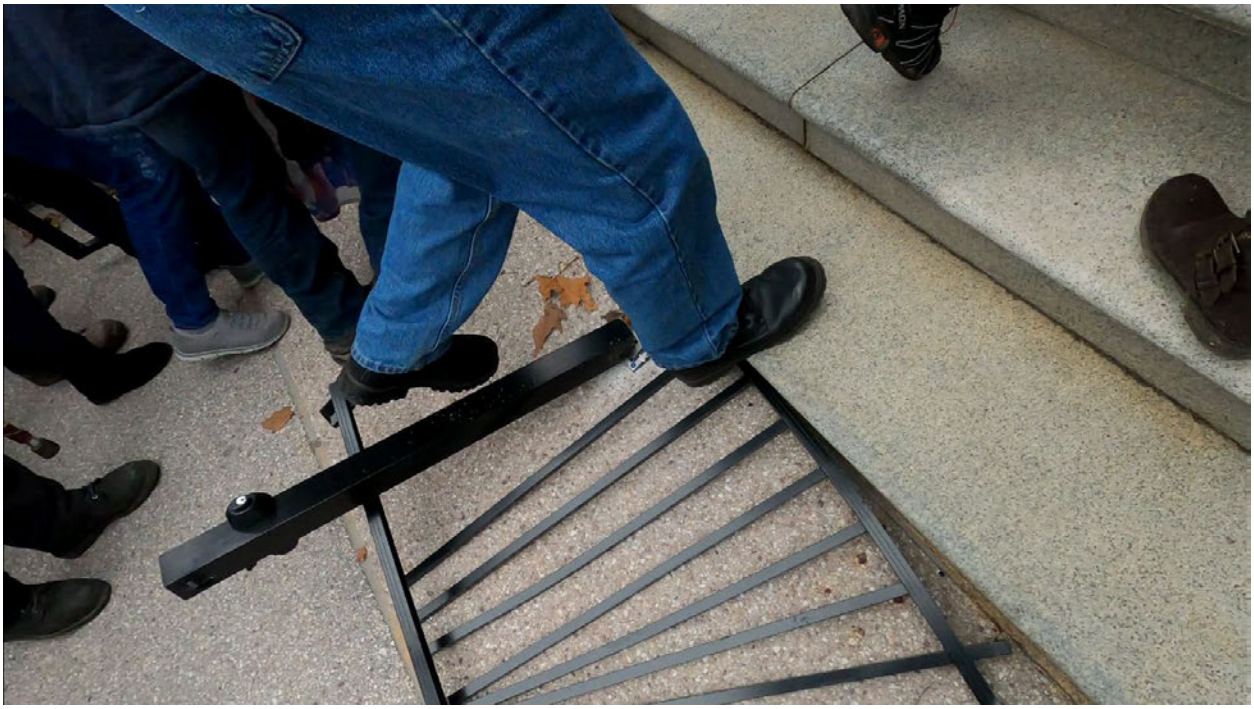

Image 5: Screenshot from one of ARBABI's videos

Additional people continued to arrive until thousands of people had gathered in front of the west side of the Capitol building. ARBABI was among the first of rioters to reach the police line in the west plaza of the Capitol building.

ARBABI continued to take numerous videos of the events with his GoPro. The videos included video of other rioters confronting law enforcement officers and engaging in violence. His videos also depict law enforcement attempting to push back rioters away from the building. In one video, he turned the camera on himself and said, "this is fucking history."

Eventually, police officers reestablished a police line with bike racks on the west plaza. ARBABI remained on the west plaza. At approximately 2:28 p.m., while on the west plaza, ARBABI picked up a flag on a flagpole and pushed himself and the rioters in front of him forward towards the line of law enforcement officers and bike fencing:

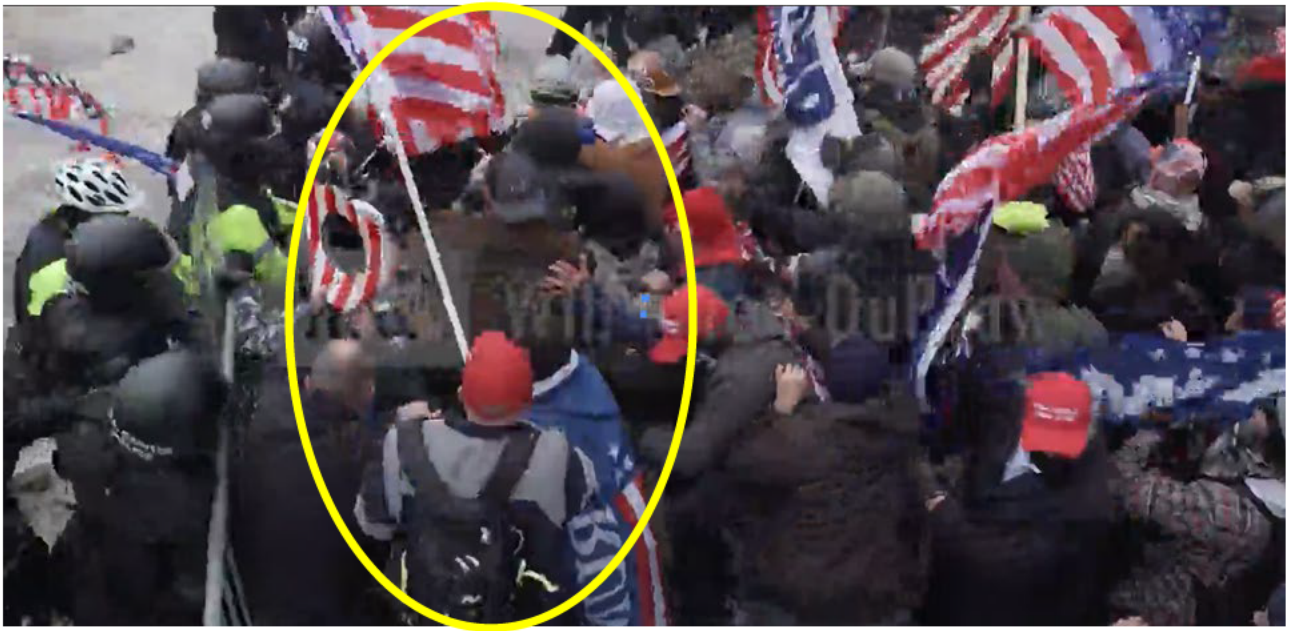

Image 6: Open-source video screenshot of ARBABI pushing towards line of police officers and bike fencing (ARBABI circled in yellow)

Based on my review on open-source video and body worn camera footage, ARBABI continued to push forward towards the line of police officers until the police line had been breached by rioters and the bike racks had been moved aside.

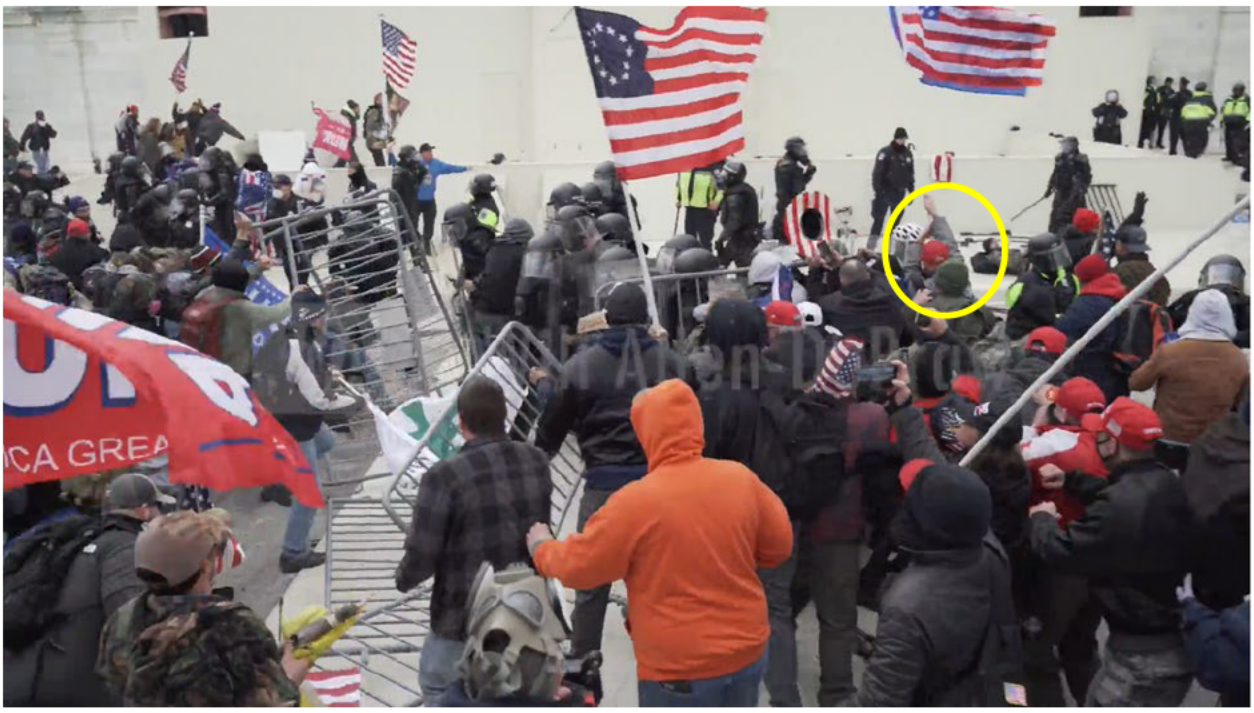

Image 7: Open-source video screenshot of ARBABI pushing towards line of police officers and bike fencing (ARBABI circled in yellow)

Image 8: Body Worn Camera screenshot of ARBABI pushing towards line of police officers and bike fencing (ARBABI circled in yellow)

Once ARBABI broke through the police line and bike racks, he waved his flag in a celebratory manner. Based on my review of ARBABI's photos, he then continued to advance toward the Capitol building.

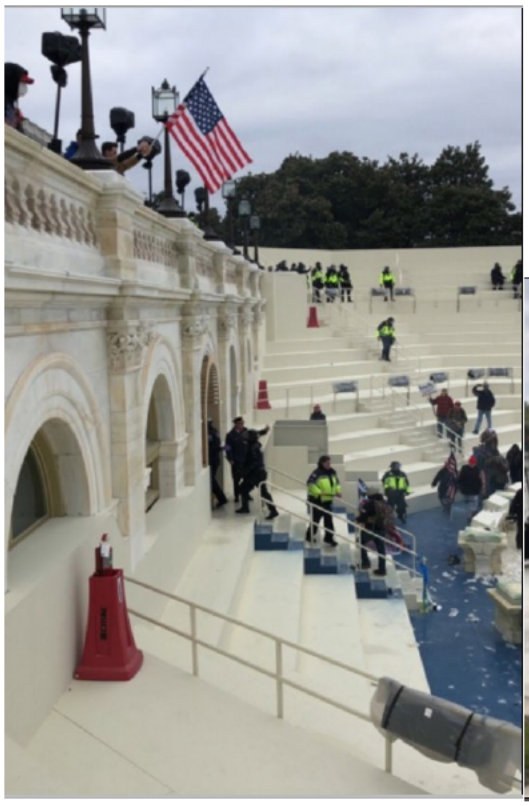

Image 9 and 10: Photo recovered from ARBABI's phone

ARBABI entered the Capitol building at approximately 2:44 p.m. through the upper west terrace door.

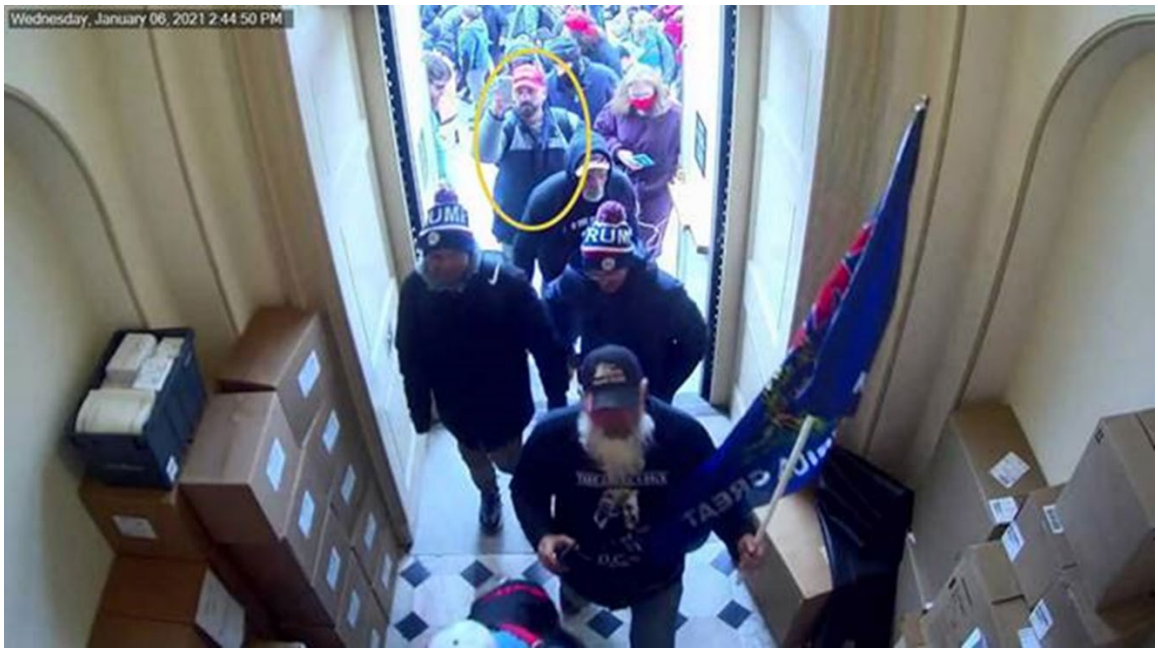

Image 11: CCTV footage (ARBABI circled in yellow)

ARBABI remained in the Capitol building for approximately 10 minutes and exited through the senate wing door.

At approximately 3:36 p.m.[1], ARBABI texted an individual, "We're gonna try to hold the Capitol until midnight to force a continent election apparently". ARBABI texted another individual at 3:46 p.m. stating "I'm part of the group storming the Capitol, I'll update you later, I'm fine though". At approximately 3:46 p.m., ARBABI sent a message in which he stated, "[]we're literally storming the Capitol building".

At approximately 4:03 pm, ARBABI received a text from an individual stating, "You are committing an act of terrorism on a federal building ehsan". ARBABI responded five seconds later stating, "Wrong," and six seconds later "It's our house".

At approximately 4:04 p.m., ARBABI sent a text message, "I can't wait to upload all my videos dude it's nuts". At 4:05 p.m. ARBABI received a text message that asked, "tear gas?" and ARBABI responded, "Yup".

Based on open-source video, videos taken on ARBABI's phone, and body worn camera footage, once outside of the Capitol building, ARBABI remained on a concrete area on Capitol grounds near the Capitol building until approximately 4:30 p.m. ARBABI did not leave Capitol grounds until a line of police officers in riot gear removed him. Later on January 6, at

[1] Times have been converted from Coordinated Universal Time to Eastern Standard Time.

approximately 6:50 p.m., ARBABI texted another individual, "Dude I literally had my back against a riot shield getting shoved back".

ARBABI'S COMMUNICATIONS AFTER JANUARY 6, 2021

In the days after January 6, ARBABI texted with multiple individuals regarding his actions at the Capitol. On January 7, 2021, ARBABI received multiple texts from an individual who expressed concern about ARBABI's presence at the Capitol. In response to one message that expressed concern that ARBABI "broke into the Capitol", ARBABI responded, "Yeah but I didn't have any weapons lol". The individual continued to express concern that the FBI may "interrogate you [Arbabi] as a domestic terrorist!" ARBABI responded, "Well one man's domestic terrorist is another man's freedom fighter".

ARBABI sent other messages about his participation in the events of January 6:

- On January 9, 2021, he stated, "I wanted to give my son an example, to see his dad stand up for something"
- On January 9, 2021, he stated, "The world always thinks people like me are crazy lol. But I think people like me are necessary too"
- On January 22, 2021, he stated, "I went because it's ALL corrupt and I thought people might actually be able to effect some positive change, but the media hijacked the narrative the way they always do and turned it into yet another divisive issue rather than one that could have been incredibly unifying to the country. You just have to watch the videos to understand"

ARBABI'S INTERVIEW WITH THE FBI

As described above, ARBABI was interviewed by FBI in April 2021. He told the FBI agent that his intent was to document the events of January 6 firsthand in the spirit of an "amateur reporter" so that he could accurately relay the truth of what happened that day rather than rely on the mainstream media. ARBABI told the FBI that he entered the building after hearing "legitimate arguments by other members of the crowd about their presence at the Capitol building." He said that at the time he thought that his actions seemed like an appropriate and acceptable method to express his grievances but that in hindsight, he regretted his behavior. ARBABI told the FBI that he planned to share all of his videos and photos via social media. Based on the FBI's investigation, ARBABI did not share his videos and photos on social media.

PROBABLE CAUSE OF VIOLATIONS OF LAW

Based on the foregoing, your affiant submits that there is probable cause to believe that ARBABI violated 18 U.S.C. § 1752(a)(1) and (2), which makes it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do; and (2) knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions, engage in disorderly or disruptive conduct in, or within such proximity to, any restricted building or grounds when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions; or attempts or conspires to do so. For purposes of

Section 1752 of Title 18, a "restricted building" includes a posted, cordoned off, or otherwise restricted area of a building or grounds where the President or other person protected by the Secret Service, including the Vice President, is or will be temporarily visiting; or any building or grounds so restricted in conjunction with an event designated as a special event of national significance.

Your affiant submits there is also probable cause to believe that ARBABI violated 40 U.S.C. § 5104(e)(2)(D) and (G), which makes it a crime to willfully and knowingly (D) utter loud, threatening, or abusive language, or engage in disorderly or disruptive conduct, at any place in the Grounds or in any of the Capitol Buildings with the intent to impede, disrupt, or disturb the orderly conduct of a session of Congress or either House of Congress, or the orderly conduct in that building of a hearing before, or any deliberations of, a committee of Congress or either House of Congress; and (G) parade, demonstrate, or picket in any of the Capitol Buildings.

Finally, your affiant submits there is probable cause to believe that ARBABI violated 18 U.S.C. § 231(a)(3), which makes it unlawful to commit or attempt to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully engaged in the lawful performance of his official duties incident to and during the commission of a civil disorder which in any way or degree obstructs, delays, or adversely affects commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function. For purposes of Section 231 of Title 18, a federally protected function means any function, operation, or action carried out, under the laws of the United States, by any department, agency, or instrumentality of the United States or by an officer or employee thereof. This includes the Joint Session of Congress where the Senate and House count Electoral College votes.

[redacted]
Special Agent
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 23rd day of September 2024.

Honorable Zia M. Faruqui
U.S. MAGISTRATE JUDGE